

City of Syracuse Industrial Development Agency
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Minutes
Board of Directors Meeting
Tuesday, September 19, 2023

Board Members Present: Kathleen Murphy, Rickey T. Brown, Steven Thompson, Kenneth Kinsey, Dirk Sonneborn

Staff Present: Eric Ennis, Kyle DeMarco, Susan Katzoff, Esq., (via video conference), Lori McRobbie

Others Present: Wendy Lougnot, Esq., Barry Lentz, Tylah Worrell, Peter King, Robert Sorasone

I. Call Meeting to Order

Ms. Murphy called the meeting to order at 8:15 a.m.

II. Roll Call

Ms. Murphy acknowledged that all board members were present.

III. Proof of Notice

Ms. Murphy acknowledged that notice of the meeting had been duly and properly provided.

IV. Minutes

Ms. Murphy asked for a motion approving the minutes from the July 18, 2023 Board of Directors meeting, a copy of which was included in the Board's packet. Mr. Kinsey made the motion. Mr. Brown seconded the motion. There being no discussion, **THE MOTION TO APPROVE THE MINUTES FROM THE JULY 18, 2023 BOARD OF DIRECTORS MEETING WAS UNANIMOUSLY APPROVED.**

V. Finance Committee Report

Ms. Murphy reported a Finance Committee held a meeting on September 14, 2023 and made a recommendation to the Board of Directors for approval/authorization for consideration of: (1) the

proposed 2024 operating budget; and (2) an investment to the City of Syracuse for the structural repairs to the Center Armory Garage in a principal amount not to exceed \$500,000.

VI. New Business

TLSP Coda, LLC

Ms. Murphy said the board is being asked to approve an amendment to the assignment language contained with the lease/leaseback documents to address a concern of TLSP Coda, LLC's (the "Company") lender. Ms. Katzoff reminded the board that this project closed in July 2023 and is located at East Fayette and Genesee Street involving the Ward Wellington Ward House. At that time, the Company advised of the lender's desire to be able to step in and maintain the PILOT structure in the unlikely event of a default. Staff advised the Company that any changes would need board approval. The lender agreed to close with the understanding that prior to their first construction draw, if the Agency did not consent to an amendment, the Company would be required to post an additional \$3,000,000 as collateral. The Company is asking the Agency to amend the language in its leases and PILOT Agreement to allow for the PILOT structure to remain in effect if there is a mortgage foreclosure. The bank wants to step into the shoes of the Company and cure the PILOT, continue the project and have the opportunity to transfer the project to a subsequent purchaser in order to continue to achieve the benefits the project was intended to provide to the community and the lender.

Ms. Katzoff said she and lender's counsel worked to come up with language to make a subsequent purchaser a qualified purchaser for purposes of the Agency's due diligence as outlined in the resolution. If these amendments to the documents are acceptable to the Agency, then lender will not require the Company to post the extra \$3,000,000 in collateral. The Company has made representations in its correspondence that posting additional \$3,000,000 at this stage of the project would put stress on the project.

Ms. Katzoff said Ms. Loughnot is present for questions.

Mr. Kinsey asked is this normal and Mr. Sonneborn asked if the Agency has done this before? Ms. Katzoff said yes, the Agency did this for the Franklin Lofts Project. Franklin Loft's lender would not allow them to refinance to put new windows in unless they would ensure that the PILOT structure would remain in effect for the term of the PILOT. Other IDAs do allow this type of transfer to happen. This Agency has never done it up front because there is a feeling that you want to control your ability to do due diligence prior to any transfer.

Mr. Brown asked if this changes the Agency's position? Ms. Katzoff said the Agency's position would not change at all. The leases are subordinate to the mortgage, but the PILOT Agreement is not subordinate to mortgage. Any bank or any 3rd party would have same obligations as the Company.

Mr. Sonneborn is glad to hear that this developer has projects all over the country but then asked if there is cause for pause that the Company cannot come up with an incremental \$3,000,000 collateral? Ms. Katzoff not at all. While they do have projects all over the country, every single

project is its own LLC and is independent of the others. Projects stabilize over time, so to put up an additional \$3,000,000 up front creates pressure on this project. Ms. Murphy said it would be an unbudgeted \$3,000,000.

Mr. Kinsey asked about a contingency if they run into cost overruns. Mr. Ennis said Hueber Bruer is the general contactor and they built in a contingency as part of the redevelopment.

Ms. Murphy asked Ms. Katzoff to confirm that all documents will remain in effect and all requirements must be met by any new applicant. Ms. Katzoff said if they are not met, the Agency has a right to default them and put the property back on the tax rolls. All remedies the Agency has right now carry forward. Any 3rd party would have to be qualified (like a new applicant). Ms. Katzoff reminded the board that at any time a company can request the board approve the sale of their interest to another entity.

Mr. Sonneborn asked what if we don't like the character of new applicant? Ms. Katzoff said the Agency will do its due diligence to make sure it is qualified applicant. Ms. Murphy said the 3rd party would go through the same vetting process as a new applicant.

Mr. Sonneborn asked what is the Agency's risk in agreeing to these terms? Ms. Katzoff said there is really very little risk. The Agency is agreeing that if a 3rd party meets the qualifications, the Agency will approve a transfer which gives the lender comfort. Also, in the case of foreclosure, the Agency won't terminate lease/leaseback documents, the bank will cure and go forward. This allows the structure of the documents and benefits package you've given to survive a foreclosure.

Ms. Lougnot said it is a lender requirement. This client has more than 50 projects, and she knows of no late payments let alone a foreclosure. If the amendments are not approved, the lender will require an extra \$3,000,000 in addition to the \$3,000,000 already in place.

Mr. Brown asked why coming at this phase and not in the beginning at the application phase? Ms. Lougnot said the company did not know about the lender requirements until the mortgage was being finalized. She said the company has not been able to draw under the loan because this needs to be resolved first.

Mr. Sonneborn asked who the bank is? Ms. Lougnot said Acres Capital is their lender.

Ms. Katzoff noted that there is a typographical error on the second page of the resolution with regards to a reference to the year 2003. It will be corrected to 2023.

There being no further discussion, Ms. Murphy asked for a motion to approve the resolution. Mr. Sonneborn made the motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION AUTHORIZING A WAIVER OF CERTAIN PROVISIONS IN THE LEASE TRANSACTIONAL DOCUMENTS.**

Center Armory Garage

Mr. Ennis said that the Center Armory Garage is owned by the Agency. The Agency has a long standing management agreement with the City of Syracuse which was most recently renewed in 2022. A series of structural improvements and repairs are needed to sustain the garage. The City's Engineering Department has retained C&S Companies to do a structural assessments on garages throughout the City. The cost estimate for repairs is approximately \$778,000 to ensure the garage's longevity as a continued parking asset in the City. As part of the discussions with the City, he would like to bring before the board is the cost sharing estimate of the overall improvements of the garage. He proposed a split of the cost of the improvements in half, with the Agency and the City each encumber 50%, in an amount not to exceed \$500,000. The City would manage and oversee the project with C&S Companies. The goal would be to undertake those improvements this fall which may extend into the first quarter of 2024. The Finance Committee discussed this in detail and the recommendation was brought to the board to approve.

Ms. Katzoff added that the resolution also asks the Agency to approve a three-year extension of the lease/operating agreement with the City to allow time to get through the remediation. The resolution also has language allowing the Chair and Executive Director to execute and negotiate an extension of the lease agreement for another three years.

Ms. Murphy said once she has the final numbers and bids the board will be fully apprised.

Mr. Kinsey asked if this project has any minority or MWBE goals. Mr. Ennis said yes, it is one of the top goals of the City Engineering Department. In order to undertake the improvements this year, the City can choose but he will make the Agency's goals known.

Mr. Sonneborn asked if the authorization to delegate responsibility to negotiate would be on terms at least as favorable with the City as we have now? Ms. Katzoff said yes.

Mr. Brown asked if there is potential to open more parking space which would produce revenue? Mr. Ennis said he does not know exactly how many spaces that are currently offline, but yes, once improvements are made, all approximately 110 spaces will be online and operational which will increase gross receipt of the garage.

There being no further discussion, Ms. Murphy asked for a motion to approve the request. Mr. Kinsey made the motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A RESOLUTION AUTHORIZING THE AGENCY'S PARTICIPATION IN AN INTERMUNICIPAL AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH AND THE EXPENDITURE OF FUNDS IN SUPPORT THEREOF.**

2024 Organizational Budget

Mr. Ennis said the board has copies of the proposed budget in their packets. He went over the anticipated projections for 2024. Try to take a conservative approach as to revenue as the largest revenue comes from project fees. The Agency did see an increase in interest income as a result of higher interest rates.

Mr. Ennis reviewed expenses including the different awards and grants.

Operations and administration is the normal staffing general operating expenses including professional fees which include legal services and accounting with the addition of contracts for technical assistance with the National Development Council (NDC).

Mr. Ennis noted that the budget presented does not include the just approved Center Armory Garage expense in an amount not to exceed \$500,000 which needs to be added based on today's approval.

Mr. Sonneborn requested that the board receive regular, recurring reporting on revenue through the year.

There being no further discussion, Ms. Murphy asked for a motion to approve the adoption of the proposed budget for 2024. Mr. Sonneborn made the motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A MOTION APPROVING THE ADOPTION OF THE PROPOSED BUDGET FOR 2024.**

Downtown Committee Budget Modification

Ms. Murphy said the Downtown Committee is requesting a modification to the allocation of funds previously approved by the Agency to the Downtown Committee.

Mr. Ennis reported that the Agency previously approved the use of this funding with a security focus and maintenance. Due to staffing difficulties, they are requesting a reallocation to use the funding to further support marketing and promotional services which will assist in drawing more people into the downtown district. They are asking that \$57,500 be reallocated over a two-year period to support marketing and promotions activities. This would not change the overall agreement the Agency has with the Downtown Committee.

Mr. Thompson said the Agency allocated the funds based on the need for increase security and clean-up. He said he does not think you are going to draw people in with advertising.

Mr. Brown said creating an employment opportunity for cleaning up in order to attract people is a better allocation of these funds as opposed to marketing and promotions. In order to attract people you need to address concerns regarding security and strengthen the efforts.

Ms. Murphy suggested that this item be held to invite Merike Treier to the next meeting to speak to the board and let her address the concerns.

Mr. Ennis said the City is working very closely with Syracuse police. They are seeing staffing challenges within the police department and patrols that cover the downtown footprint as well as challenges in staffing Downtown Committee security. Ms. Treier can speak about it.

Agency Uniform Tax Exemption Policy

Ms. Murphy proposed a motion to further extend the Uniform Tax Exemption Policy's (UTEP) effective date to the end of this year due to a lot of volatility in the market as well as the recent rollout of Rezone which is starting to address the housing set-aside and various things that need to be aligned between their policy and the UTEP Policy. The Project Approval Policy will remain in effect. TLSP Coda will provide a second quarter report at the Agency's next meeting.

Ms. Katzoff said the new UTEP was adopted in January 2023 but the board was asked almost immediately to pause the effective date. The Chair is asking to the extend the pause through end of 2023. The Agency's existing UTEP will continue to control until the new effective date occurs.

Mr. Brown asked for the status of the housing studies. Ms. Murphy said second meeting is today and staff has been discussing the UTEP changes.

Ms. Katzoff said the City is continuing to work on the same issues under ReZone. They are putting together their manual and how they are going to apply the set-asides and what the metrics will be. The City is not quite there yet, so we just want to make sure they are aligned and don't want to make a mistake. A little more time will allow us to get it right.

There being no further discussion, Ms. Murphy asked for a motion to approve the extension of the effective date of the new UTEP Policy to the end of 2023. Mr. Kinsey made the motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A MOTION APPROVING THE EXTENSION OF THE EFFECTIVE DATE OF THE NEW UTEP POLICY TO THE END OF 2023.**

VII. Adjournment

There being no further business to discuss, Ms. Murphy asked for a motion to adjourn the meeting. Mr. Kinsey made a motion. Mr. Brown seconded the motion. **ALL BOARD MEMBERS PRESENT UNANIMOUSLY APPROVED A MOTION TO ADJOURN THE MEETING AT 8:56 AM.**